

Senate File 2175

SENATE FILE _____
BY COMMITTEE ON BUSINESS AND LABOR
RELATIONS

(SUCCESSOR TO SSB 3080)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the provision of workers' compensation
2 benefits, to the release of information concerning such
3 benefits, and to workers' compensation liability insurance.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5406SV 80
6 av/pj/5

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1 1 Section 1. Section 22.7, Code Supplement 2003, is amended
1 2 by adding the following new subsection:
1 3 NEW SUBSECTION. 48. Confidential information filed with
1 4 the workers' compensation commissioner as defined in section
1 5 86.45, subsection 1.
1 6 Sec. 2. Section 85.27, subsection 7, Code 2003, is amended
1 7 to read as follows:
1 8 7. If, after the third day of incapacity to work following
1 9 the date of sustaining a compensable injury which does not
1 10 result in permanent partial disability, or if, at any time
1 11 after sustaining a compensable injury which results in
1 12 permanent partial disability, an employee, who is not
1 13 receiving weekly benefits under section 85.33 or section
1 14 85.34, subsection 1, returns to work and is required to leave
1 15 work for one full day or less to receive services pursuant to
1 16 this section, the employee shall be paid an amount equivalent
1 17 to the wages lost at the employee's regular rate of pay for
1 18 the time the employee is required to leave work. For the
1 19 purposes of this subsection, "day of incapacity to work" means
1 20 eight hours of accumulated absence from work due to incapacity
1 21 to work or due to the receipt of services pursuant to this
1 22 subsection. The employer shall make the payments under this
1 23 subsection as wages to the employee after making such
1 24 deductions from the amount as legally required or customarily
1 25 made by the employer from wages. Payments made under this
1 26 subsection shall be required to be reimbursed pursuant to any
1 27 insurance policy covering workers' compensation. Payments
1 28 under this subsection shall not be construed to be payment of
1 29 weekly benefits.
1 30 Sec. 3. Section 85.38, subsection 2, Code 2003, is amended
1 31 to read as follows:
1 32 2. CREDIT FOR BENEFITS PAID UNDER GROUP PLANS. In the
1 33 event the employee ~~with a disability~~ shall receive any
1 34 benefits, including medical, surgical, or hospital benefits,
1 35 under any group plan covering nonoccupational disabilities
2 1 contributed to wholly or partially by the employer, which
2 2 benefits should not have been paid or payable if any rights of
2 3 recovery existed under this chapter, chapter 85A, or chapter
2 4 85B, then the amounts so paid to the employee from the group
2 5 plan shall be credited to or against any compensation
2 6 payments, including medical, surgical, or hospital, made or to
2 7 be made under this chapter, chapter 85A, or chapter 85B. The
2 8 amounts so credited shall be deducted from the payments made
2 9 under these chapters. Any nonoccupational plan shall be
2 10 reimbursed in the amount deducted. This section shall not
2 11 apply to payments made under any group plan which would have
2 12 been payable even though there was an injury under this
2 13 chapter or an occupational disease under chapter 85A or an
2 14 occupational hearing loss under chapter 85B. Any employer
2 15 receiving such credit shall keep the employee safe and
2 16 harmless from any and all claims or liabilities that may be
2 17 made against them by reason of having received the payments
2 18 only to the extent of the credit.
2 19 If an employer denies liability under this chapter, chapter
2 20 85A, or chapter 85B, for payment for any medical services

2 21 received or weekly compensation requested by an employee with
2 22 ~~a disability~~, and the employee is a beneficiary under either
2 23 an individual or group plan for nonoccupational illness,
2 24 injury, or disability, the nonoccupational plan shall not deny
2 25 payment for the medical services received or benefits under
2 26 the plan on the basis that the employer's liability ~~for the~~
2 27 ~~medical services~~ under this chapter, chapter 85A, or chapter
2 28 85B is unresolved.

2 29 Sec. 4. Section 86.24, subsection 4, Code 2003, is amended
2 30 to read as follows:

2 31 4. A transcript of a contested case proceeding shall be
2 32 provided by an appealing party at the party's cost ~~and an~~
2 33 ~~affidavit shall be filed by the appealing party or the party's~~
2 34 ~~attorney with the workers' compensation commissioner within~~
2 35 ~~ten days after the filing of the appeal to the workers'~~

3 1 ~~compensation commissioner stating that the transcript has been~~
3 2 ~~ordered and identifying the name and address of the reporter~~
3 3 ~~or reporting firm from which the transcript has been ordered.~~

3 4 Sec. 5. NEW SECTION. 86.45 CONFIDENTIAL INFORMATION.

3 5 1. "Confidential information", for the purposes of this
3 6 section, means all information that is filed with the workers'
3 7 compensation commissioner as a result of an employee's injury
3 8 or death that would allow the identification of the employee
3 9 or the employee's dependents. Confidential information
3 10 includes first reports of injury and subsequent reports of
3 11 claim activity. Confidential information does not include
3 12 pleadings, motions, decisions, opinions, or applications for
3 13 settlement that are filed with the workers' compensation
3 14 commissioner.

3 15 2. The workers' compensation commissioner shall not
3 16 disclose confidential information except as follows:

3 17 a. Pursuant to the terms of a written waiver of
3 18 confidentiality executed by the employee or the dependents of
3 19 the employee whose information is filed with the workers'
3 20 compensation commissioner.

3 21 b. To another governmental agency, or to an advisory,
3 22 rating, or research organization, for the purpose of compiling
3 23 statistical data, evaluating the state's workers' compensation
3 24 system, or conducting scientific, medical, or public policy
3 25 research, where such disclosure will not allow the
3 26 identification of the employee or the employee's dependents.

3 27 c. To the employee or to the agent or attorney of the
3 28 employee whose information is filed with the workers'
3 29 compensation commissioner.

3 30 d. To the person or to the agent of the person who
3 31 submitted the information to the workers' compensation
3 32 commissioner.

3 33 e. To an agent, representative, attorney, investigator,
3 34 consultant, or adjuster of an employer, or insurance carrier
3 35 or third-party administrator of workers' compensation
4 1 benefits, who is involved in administering a claim for such
4 2 benefits related to the injury or death of the employee whose
4 3 information is filed with the workers' compensation
4 4 commissioner.

4 5 f. To all parties to a contested case proceeding before
4 6 the workers' compensation commissioner in which the employee
4 7 or a dependent of the employee, whose information is filed
4 8 with the workers' compensation commissioner, is a party.

4 9 g. In compliance with a subpoena.

4 10 h. To an agent, representative, attorney, investigator,
4 11 consultant, or adjuster of the employee, employer, or
4 12 insurance carrier or third-party administrator of insurance
4 13 benefits, who is involved in administering a claim for
4 14 insurance benefits related to the injury or death of the
4 15 employee whose information is filed with the workers'
4 16 compensation commissioner.

4 17 3. This section does not create a cause of action for a
4 18 violation of its provisions against the workers' compensation
4 19 commissioner or against the state or any governmental
4 20 subdivision of the state.

4 21 Sec. 6. Section 87.11, unnumbered paragraph 1, Code 2003,
4 22 is amended to read as follows:

4 23 When an employer coming under this chapter furnishes
4 24 satisfactory proofs to the insurance commissioner of such
4 25 employer's solvency and financial ability to pay the
4 26 compensation and benefits as by law provided and to make such
4 27 payments to the parties when entitled thereto, or when such
4 28 employer deposits with the insurance commissioner security
4 29 satisfactory to the insurance commissioner ~~and the workers'~~
4 30 ~~compensation commissioner~~ as guaranty for the payment of such
4 31 compensation, such employer shall be relieved of the

4 32 provisions of this chapter requiring insurance; but such
4 33 employer shall, from time to time, furnish such additional
4 34 proof of solvency and financial ability to pay as may be
4 35 required by such insurance commissioner ~~or workers'~~
5 1 ~~compensation commissioner. Such security shall be held in~~
5 2 ~~trust for the sole purpose of paying compensation and benefits~~
5 3 ~~and is not subject to attachment, levy, execution,~~
5 4 ~~garnishment, liens, or any other form of encumbrance. A~~

5 5 political subdivision, including a city, county, community
5 6 college, or school corporation, that is self-insured for
5 7 workers' compensation is not required to submit a plan or
5 8 program to the insurance commissioner for review and approval.

5 9 Sec. 7. Section 87.11, unnumbered paragraph 3, Code 2003,
5 10 is amended to read as follows:

5 11 If an employer becomes insolvent and a debtor under 11
5 12 U.S.C., on or after January 1, 1990, ~~or ceases doing business,~~
5 13 this paragraph applies. The ~~commissioner of insurance~~
5 14 ~~commissioner~~ may request of the workers' compensation
5 15 commissioner that all future payments of workers' compensation
5 16 weekly benefits, medical expenses, or other payments pursuant
5 17 to chapter 85, 85A, 85B, 86, or 87 be commuted to a present
5 18 lump sum. The workers' compensation commissioner shall fix
5 19 the lump sum of probable future medical expenses and weekly
5 20 compensation benefits, or other benefits payable pursuant to
5 21 chapter 85, 85A, 85B, 86, or 87, capitalized at their present
5 22 value upon the basis of interest at the rate provided in
5 23 section 535.3 for court judgments and decrees. ~~If an employer~~
5 24 ~~ceases doing business without becoming insolvent, the~~
5 25 ~~insurance commissioner shall publish notice of the time and~~
5 26 ~~manner for filing claims against the employer in a newspaper~~
5 27 ~~in general circulation in the county or counties within the~~
5 28 ~~state where the employer is known to have maintained a place~~
5 29 ~~of business. The notice shall be published once each week for~~
5 30 ~~three consecutive weeks with the last publication not less~~
5 31 ~~than thirty days before the time for filing claims expires.~~

5 32 ~~Defects in the notice or publication shall not affect the~~
5 33 ~~period for filing claims against the employer or give rise to~~
5 34 ~~a claim against the insurance commissioner. All claims that~~
5 35 ~~are not otherwise barred shall become barred if not filed~~
6 1 ~~within five years after the date the employer ceased doing~~
6 2 ~~business, as determined by the insurance commissioner,~~
6 3 ~~including claims for review reopening, benefits under section~~
6 4 ~~85.27, and latent injuries. The commissioner of insurance~~
6 5 ~~commissioner shall be discharged from all further liability~~
6 6 ~~for the commuted workers' compensation claim upon payment of~~
6 7 ~~the present lump sum to either the claimant, or a licensed~~
6 8 ~~insurer for purchase of an annuity or other periodic payment~~
6 9 ~~plan for the benefit of the claimant.~~

6 10 Sec. 8. Section 87.14A, Code 2003, is amended to read as
6 11 follows:

6 12 87.14A INSURANCE ~~OR BOND~~ REQUIRED.

6 13 An employer subject to this chapter and chapters 85, 85A,
6 14 85B, and 86 shall not engage in business without first
6 15 obtaining insurance covering compensation benefits or
6 16 obtaining relief from insurance as provided in this chapter ~~or~~
6 17 ~~furnishing a bond pursuant to section 87.16. A person who~~
6 18 ~~willfully and knowingly violates this section is guilty of a~~
6 19 ~~class "D" felony.~~

6 20 Sec. 9. Section 87.19, unnumbered paragraph 1, Code 2003,
6 21 is amended to read as follows:

6 22 Upon the receipt of information by the workers'
6 23 compensation commissioner of any employer failing to comply
6 24 with ~~sections 87.16 and 87.17~~ section 87.14A, the commissioner
6 25 shall at once notify such employer by certified mail that
6 26 unless such employer comply with the requirements of law,
6 27 legal proceedings will be instituted to enforce such
6 28 compliance.

6 29 Sec. 10. Section 87.20, Code 2003, is amended to read as
6 30 follows:

6 31 87.20 REVOCATION OF RELEASE FROM INSURANCE.

6 32 The insurance commissioner ~~with the concurrence of the~~
6 33 ~~workers' compensation commissioner~~ may, at any time, upon
6 34 reasonable notice to such employer and upon hearing, revoke
6 35 for cause any order theretofore made relieving any employer
7 1 from carrying insurance as provided by this chapter.

7 2 Sec. 11. Sections 87.16 and 87.17, Code 2003, are
7 3 repealed.

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